

# EXHIBIT 5



**FOUNTAINHEAD**

August 16, 2021

The Honorable Isabella Casillas Guzman  
Administrator of the U.S. Small Business Administration  
409 3<sup>rd</sup> Street SW  
Washington, D.C. 20416

**Re: The Absence of PPP loan agent fee regulations for 2021 PPP loans**

Dear Administrator Guzman:

We write to you regarding an apparent oversight by SBA in NOT issuing regulations concerning loan agent fees paid on Paycheck Protection Program (PPP) loans made during calendar year 2021. While this oversight has caused some problems for various lenders due to the absence of this guidance, this issue can be easily rectified if SBA takes quick action.

Our three Florida-based small business lending firms (Fountainhead, Benworth and SEDCO) made 627,566 PPP loans in 2021 (for approximately \$8.7bn) which represents 9.39% of all PPP loans made this year (and approximately 3.14% of the dollar amount of PPP loans made in 2021). While none of our lending firms are household names, we all pivoted our businesses to respond to the dire needs of small businesses and contributed significantly to the government's economic recovery efforts. Out of 5,242 participating PPP lenders in 2021, our three firms helped save an estimated 690,000 American jobs.

In early April 2020 with the launch of the first round of PPP loans, Treasury issued regulations regarding the maximum fee a participating PPP lender could pay a "loan agent" for their PPP loan referrals. These maximum loan agent fees ranged from between 16.67% and 25% of the lenders' processing fees (no more than 1% of the loan amount could be paid on PPP loans up to \$350,000; no more than 0.5% of the loan amount could be paid on PPP loans between \$350,000 and \$2,000,000; and no more than 0.25% of the loan amount could be paid on PPP loans above \$2,000,000).

Unfortunately, with the passage of round three of PPP loans in late December 2020 (which enabled 2021 PPP loans to be made), neither Treasury nor SBA issued regulations (or updates to existing regulations) regarding the maximum loan agent fees that lenders could pay for referrals. Especially problematic was that the lender processing fees earned on the smallest PPP loans (those of \$50,000 or less) were dramatically changed from 2020 PPP loans to incentivize lenders to make these smaller loans to underserved small business owners. However, no regulation has been issued regarding the maximum fee a lender can pay a loan agent for these particular 2021 PPP loan referrals. The absence of this guidance has caused considerable ambiguity and unnecessary disputes between lenders and loan agents.

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We believe this oversight can be rectified quickly and easily with the issuance of a regulation about these smaller 2021 PPP loans regarding the maximum amount a lender may pay a loan agent on each referred PPP loan made in 2021. Our suggestion would be that SBA issue a short regulation (in the Federal Register and/or in your PPP FAQ's) indicating that no lender may pay more than 50% of their earned processing fees made on these smaller (\$50,000 and under) PPP loans to any loan agent.

**We urge you to make this simple fix and end this ambiguity so we may refocus our efforts on continuing to support small businesses with other SBA loan programs.**

Thank you for your consideration.

Sincerely,

Chris Hurn,  
Founder/CEO  
Fountainhead SBF

Bernie Navarro,  
Founder/CEO  
Benworth Capital Partners

Brooke Mirenda,  
President & CEO  
Sunshine State Economic Development Company (SEDCO)

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